

The complaint

Ms P complains that NewDay Ltd trading as Aquacard (Aqua) failed to collect two payments in line with the direct debit guarantee. Ms P also complains that Aqua changed her address which meant statements weren't received.

What happened

The background to this complaint and my initial conclusions were set out in my provisional decision. I said:

Aqua sent Ms P a statement on 15 July 2019 that said it would collect £319.28 on 1 August 2019. But Aqua sent a follow up email 10 days later that said, following a refund, the direct debit amount it would collect would be £0. On 2 August 2019 Aqua took a payment of £174.12 by direct debit. Ms P has explained that she called Aqua about the payment and was told to claim it back via her bank. The payment was reversed a short time later.

In August 2020 Ms P requested a credit limit increase but it was declined. Ms P told Aqua she wanted to close her account and was told she would receive a closing statement in September 2020. But Ms P's address had been changed on Aqua's system. As a result of returned post, Aqua suppressed further statements from being sent to Ms P.

On 2 October 2020 Aqua debited £364.80 from Ms P, the remaining balance owed on her credit card.

Ms P complained that Aqua had broken the direct debit guarantee by failing to give her the required notice of the payments it intended to take. Ms P also complained that Aqua had sent statements to the wrong address and was reporting incorrect information on her credit file.

Aqua offered Ms P £100 and apologised for the service provided. It didn't agree the direct debit guarantee had been broken. An investigator at this service looked into Ms P's case and upheld it. As a result, Aqua agreed to correct the address details it held and ensure the credit reference agencies were updated. Aqua also agreed to pay Ms P £200 to apologise for the distress and inconvenience caused.

Ms P asked to appeal and said she remained of the view that Aqua had broken the direct debit guarantee because it hadn't given notice of the payments it intended to take. As Ms P asked to appeal, her complaint has been passed to me to make a decision.

What I've provisionally decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

The direct debit guarantee says If there are changes to the amount, date or frequency of your Direct Debit the organisation will notify you (normally 10 working days) in advance of

your account being debited or as otherwise agreed. Ms P has told us she believes the guarantee was broken on two occasions by Aqua.

I agree with Ms P that the August 2019 payment wasn't claimed in line with the direct debit guarantee. Ms P correctly says the guarantee requires businesses to provide notice of a change in payment. Aqua sent a statement on 15 July 2019 that gave the payment amount. Then followed up with an email around ten days later that confirmed the payment would actually be £0 because of refunds received to the credit card. But, instead, Aqua debited £174.12 on 2 August 2019. I can see no evidence that Aqua notified Ms P of the revised payment amount before it claimed it.

I also think it's reasonable to note that Ms P clearly checked why the amount had been taken despite Aqua's earlier email. Ms P was told to reclaim the payment via her bank. Ms P has confirmed she raised an indemnity claim with her bank and the funds were returned to her. We're an informal dispute resolution service and can't fine or punish a business for making a mistake. Any award I make is consumer focused. That means, I'll consider the impact of an error on the consumer and make what I feel is a fair award. So whilst I agree the payment wasn't claimed in line with the direct debit guarantee, I need to take into account how that impacted Ms P.

I understand Ms P was referred back to her bank to obtain a refund. But I don't think that was unreasonable. There is a direct debit indemnity process in place and the payment appears to have been refunded to Ms P's bank the following day. I agree there would've been a degree of inconvenience in that Ms P had to raise the claim with her bank, but she hasn't told us about any other issues or losses that were caused as a result. I've taken the level of inconvenience caused to Ms P into account when deciding how to resolve her complaint.

Aqua says it's unclear how Ms P's address was changed. I'm satisfied Ms P didn't change it. I see no reason why someone would attempt to change their address if they hadn't moved. And I note the amendment was made at the time Ms P told Aqua she wanted to close her account. I'm satisfied Aqua was most likely responsible for the error that meant Ms P's address was changed.

Ms P has provided evidence that the incorrect address was recorded on her credit file – although she's confirmed it didn't impact her score. I'm pleased Aqua has now provided evidence the address has been corrected.

The address amendment had the knock-on effect of meaning Ms P's statements were returned to Aqua undelivered. That, in turn, meant Aqua didn't send out further statements, including the information about her final direct debit payment. So, again, it's arguable that Ms P didn't receive the correct notice of the intended direct debit payment before Aqua took it on 2 October 2020.

Again, I've considered how Aqua's failure to send Ms P her last two statements impacted her. Ms P hasn't told us about a financial loss. And I think it's fair to say Ms P would've been aware she had another payment to make as she continued to use her credit card until the last week of August 2020. But I agree with Ms P that the statement suppression caused by Aqua's address error meant she didn't get prior warning of Aqua's intention to take her final payment by direct debit on 2 October 2020. And it's clear that's caused Ms P a reasonable level of trouble and upset, trying to get to the bottom of matters.

Whilst complaint handling in itself isn't a regulated activity, I've also considered how long it took for Ms P to get some answers from Aqua. And it's only because Ms P has provided copies of emails and information she holds that we've been able to get to the bottom of what

happened. I think the way Aqua has investigated what's happened has unfairly impacted Ms P and caused further inconvenience.

Aqua has agreed to pay Ms P £200 but she's told us she doesn't agree that level of compensation is fair. I think Ms P is right. Whilst each of the issues raised may've caused a minor degree of trouble, taken together I'm satisfied Ms P has been put to a reasonable level of inconvenience. I also think it's fair to note Aqua sent private information to the wrong address which led to Ms P's statements not being posted. Aqua also recorded the wrong address on Ms P's credit file. On two occasions, Aqua has made errors that mean Ms P didn't receive notice of the direct debit payment it intended to take. I'm satisfied that's caused Ms P both distress and inconvenience that isn't reflected in a £200 payment.

Based on the information I've seen, I intend to uphold Ms P's complaint and direct Aqua to increase the award from £200 to £350. In my view, that figure more fairly reflects the distress and inconvenience caused to Ms P.

I invited both parties to respond with any additional points or comments they wanted me to consider before I made my final decision. Ms P responded and reconfirmed her view that Aqua had breached the direct debit guarantee. Ms P also said she would like me to specify the level of refund she received in July 2019, which was £466 and exceeded the following contractual monthly payment.

Ms P also pointed out she hadn't received a final response from Aqua or an apology and that the £100 offer was made directly to the investigator. Ms P also asked for a written apology from Aqua in addition to the compensation I set out in my provisional decision.

Aqua confirmed it had nothing further to add.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I'd like to thank Ms P for the level of detail given in her response to my provisional decision. I want to assure Ms P I've read and considered everything provided by both parties in this case. If I don't specifically address each point made it isn't because I haven't considered it. I have. I've focused on what I think are the key issues in this case – an approach in line with the informal nature of this service.

Ms P wanted me to confirm the refund she received on 17 July 2019 was £466 and exceeded the minimum payment Aqua intended to take. I can see that's the case.

I can also see that the £100 offer was made directly to our investigator by Aqua to reflect the service provided and not in a final response. No final response was issued by Aqua and it hasn't specifically apologised beyond the offer of compensation made. I hope Ms P will accept my apologies that the provisional decision said Aqua had apologised.

Ms P says she wants me to direct Aqua to send her a written apology. But I think it's fair to say that any apology I direct a business to make is likely to lack the sincerity Ms P wants. But I've taken the impact of Aqua's actions on Ms P into account when deciding how to fairly resolve her case and agree the complaint should've been handled differently.

Ms P has also pointed out the time taken to deal with her complaint after it was raised. I confirmed I'd considered this in my provisional decision and explained it was one of the reasons I'd decided to increase the award.

I'm satisfied the £350 I awarded in my provisional decision fairly reflects the distress and inconvenience caused by the way Aqua handled the issues raised. As a result, I'm going to proceed on that basis and uphold Ms P's complaint.

My final decision

My decision is that I uphold Ms P's complaint and direct NewDay Ltd trading as Aquacard to pay Ms P £350.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms P to accept or reject my decision before 22 March 2022.

Marco Manente
Ombudsman